

Staff Summary Report



Council Meeting Date: 12-13-07

Agenda Item Number: 5c

SUBJECT: Request approval of an Intergovernmental Agreement with the City of Mesa for the Apache Boulevard and Main Street Intelligent Transportation System Project.

DOCUMENT NAME: 20071213PWjd02 **TRANSPORTATION PLANNING (1101-01)**

SUPPORTING DOCS: Yes

COMMENTS: Subject to execution of final written Intergovernmental Agreement. Tempe's construction cost of \$120,000 will be funded with federal grants of \$97,000 and a local share of \$23,000.

PREPARED BY: Jim Decker, ITS Manager (350-8320)

REVIEWED BY: Carlos de Leon, Deputy Public Works Manager (350-8527)

LEGAL REVIEW BY: Mary Wade, Assistant City Attorney (350-8612)

FISCAL NOTE: Sufficient funds are available in capital fund 6999879.

RECOMMENDATION: Recommend approval.

ADDITIONAL INFO: Tempe's portion of this project constitutes the first phase of a fiber optics communications infrastructure improvement program designed to extend the Light Rail communications technology from Apache Blvd. and Terrace Rd, west to the Apache and Mill curve, and north to Mill Ave. and University Dr. The future phase of the program will further extend the communications technology north to Mill Ave. and Third St. connecting to the LRT fiber optic communications network. The completion of this program will provide a fiber optic communications network around downtown Tempe and Arizona State University which will support traffic signal control, informational signs at transit stops and a redundant communications path to Tempe Police and Fire facilities on Apache Blvd.

This project is the result of a collaborative effort between Mesa and Tempe and is federally funded through the Maricopa Association of Governments (MAG) Transportation Improvement Program. Mesa is acting as the lead agency for design, construction and construction management. Mesa contracted with the design consultant to design the project and will bid and award the project accordingly. Tempe will provide 10 signal controllers, which are valued at \$23,000, as a local share.

Approved by Glenn Kephart, Public Works Manager

When recorded mail to:
City of Mesa
Real Estate Services
P.O. Box 1466
Mesa, AZ 85211-1466

**INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE CITY OF TEMPE AND THE CITY OF MESA
FOR THE APACHE BOULEVARD AND MAIN STREET
INTELLIGENT TRASPORTATION SYSTEM PROJECT**

C2007-232

This Intergovernmental Agreement ("Agreement") is entered into this 13th day of December, 2007, by and between the City of Tempe, an Arizona municipal corporation, ("Tempe") and the City of Mesa, an Arizona municipal corporation ("Mesa"). Tempe and Mesa are sometimes collectively referred to as the "Parties" and each is referred to as a "Party."

STATUTORY AUTHORIZATION

1. The Arizona Revised Statutes ("A.R.S.") §11-951 et seq., provide that public agencies may enter into Intergovernmental Agreements for the provision of services or for joint or cooperative action.
2. Tempe and Mesa are empowered by A.R.S. § 9-240 and § 9-276 to improve and maintain roadways within their jurisdictions and to enter into this Agreement.

BACKGROUND

3. Tempe and Mesa are proposing to enter into an Intergovernmental Agreement to design and construct an Intelligent Transportation System (ITS) improvements along portions of Apache Boulevard / Main Street located within the jurisdictions of Tempe and Mesa. Mesa is proposing to install the following ITS improvements: 1) 1 2/3 miles conduit and fiber optics connecting existing fiber locations at Sycamore and Mesa Drive; 2) 1 1/3 miles fiber optics in existing conduit; 3) two CCTV traffic cameras, one at Main Street and Alma School Road and one at Main Street and Country club Drive; 4) pedestrian countdown timers and smart pedestrian push buttons at 13 intersections along Main Street between Mesa Drive and Longmore; and 5) a dynamic message sign (DMS) at Main Street and Country Club Drive. Tempe is proposing to install the following ITS improvements: 1) fiber optics and inner duct along Apache Boulevard between Terrace Road and Normal Avenue; and 2) conduit at signalized intersections where an existing joint use conduit will be eliminated. There are 9 signalized intersections located within the Apace Boulevard / Main Street project limits in

Tempe and Mesa that will be connected to the fiber optic trunk line. The improvements being proposed by the Parties as described above are herein after referred to as the "Project".

4. By working together, Tempe and Mesa will benefit by having the work done for the Project jointly.
5. This project is partially funded by a Federal grant. See Appendix A for a breakdown of the estimated Project costs.

PURPOSE OF THE AGREEMENT

6. The purpose of this Agreement is to identify and define the responsibilities of Tempe and Mesa related to the design, construction and construction management for the Intelligent Transportation System (ITS) along portions of Apache Boulevard / Main Street as referred to as the Project.

TERMS OF THE AGREEMENT

7. Tempe Agrees to:

- 7.1 Allow Mesa to act as the lead agency for the design, construction and construction management for the Project.
- 7.2 Provide a contact during the actual construction to assist in coordination, oversight and inspection.
- 7.3 Review and provide comments to Mesa upon receipt of the Project plans and specifications within 30 days of receipt.
- 7.4 Acquire right-of-way and easements from property owners within Tempe's jurisdiction as needed for the Project by purchase, dedication, donation or through the exercise of eminent domain, if necessary.
- 7.5 Participate in the construction inspection for the Project.
- 7.6 Be responsible for the costs of any additional change orders that are requested and approved by Tempe. Tempe shall approve all change orders in a timely manner so the construction of the Project is not delayed.
- 7.7 Provide ten (10) traffic signal controllers, with a total estimated value of \$23,000 for installation as outlined in the construction documents.

- 7.8 Issue a permit to Mesa at no cost to install the fiber optic cable, conduit and equipment within the corporate limits of the City of Tempe.
- 7.9 Own, operate and maintain that portion of the Project that is located within Tempe's jurisdiction, after the work is completed and accepted by Tempe and Mesa.

8. Mesa Agrees to:

- 8.1 Act as the lead agency for the design, construction and construction management for the Project.
- 8.2 Enter into a design contract with the Consultant and to design the Project in accordance to Mesa Design Standards.
- 8.3 Provide Tempe with a set of plans for review, comments and approval.
- 8.4 Act as the contracting agency for the project and shall call for, receive, open and tabulate bids for the improvements.
- 8.5 Acquire right-of-way and easements from property owners within Mesa's jurisdiction as needed for the Project by purchase, dedication, donation or through the exercise of eminent domain, if necessary.
- 8.6 Provide all the necessary construction engineering, interim inspections and testing required for quality control and adherence to the plans and specifications. Tempe and Mesa shall jointly provide final inspections for the improvements.
- 8.7 Be responsible for one hundred (100%) percent of the design, construction and construction management costs.
- 8.8 Be responsible for the costs of any additional change orders that are requested and approved by Mesa.
- 8.9 Provide one (1) office switch and ten (10) field switches to the City of Tempe as outlined in the construction documents.
- 8.10 Own, operate and maintain that portion of the Project that is located within Mesa's jurisdiction, after the work is completed and accepted by Tempe and Mesa.

- 8.11 Obtain all environmental clearances and utilize right-of-way and utility clearance information from the City of Tempe in order to obtain clearances through ADOT for the construction of this Project.

MISCELLANEOUS

9. The parties hereby agree that to the extent permitted by law, each party will indemnify and save the other parties harmless, including any of the parties departments, agencies, officers, employees, elected officials or agents, from and against all loss, expense, damage or claim of any nature whatsoever which is caused by any activity, condition or event arising out of the performance or nonperformance by the indemnifying party of any of the provisions of this agreement. Each party hereby indemnifies the other against all liability, losses and damages of any nature for or on account of any injuries or death of persons or damages to or destruction of property arising out of or in any way connected with the performance or nonperformance of this agreement, except such injury or damage as shall have been occasioned by the negligence of that other party. The damages which are the subject of this indemnity shall include but not be limited to the damages incurred by any party, its departments, agencies, officers, employees, elected officials or agents. In the event of an action, the damages which are the subject of this indemnity shall include court costs, expenses for litigation and reasonable attorney's fees.
10. This Agreement shall be effective as of the date it is filed with the Maricopa County Recorder pursuant to A.R.S. §11-952 and remain in full force and effect until all stipulations previously indicated have been satisfied except that it may be amended upon written agreement by both parties. Any party may terminate this Agreement upon furnishing the other parties with a written notice at least thirty (30) days prior to the effective date of the desired termination date.
11. Pursuant to A.R.S. §11-952, as amended, attached to this Agreement are copies of appropriate action by ordinance, resolution or otherwise authorizing the respective parties to enter into this Agreement.
12. This Agreement shall be subject to the provisions of A.R.S. §38-511.
13. This Agreement shall not be construed to imply authority to perform any tasks, or accept any responsibility, not expressly set forth herein.
14. This Agreement shall be strictly constructed against creation of a duty or responsibility unless the intention to do so is clearly and unambiguously set forth herein.
15. This Agreement shall not be modified or extended except by written instrument adopted in accordance with the requirements for adopting a new agreement.
16. This Agreement does not grant authority to control the subject roadway, except to the extent necessary to perform the tasks expressly undertaken pursuant to this agreement.
17. Any funding provided for herein, other than in the current fiscal year, is contingent upon being budgeted and appropriated by the Tempe and Mesa respective City Councils.

18. This Agreement has been arrived at by negotiation and shall not be construed against either Party or against the party who prepared the last draft.
19. This Agreement shall remain in effect (i) for four years, or (ii) until such time as both Tempe and Mesa has approved the design of Mesa's Portion and Tempe Portion, and (iii) until Mesa has paid their share of the design costs, whichever occurs earlier.

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective the date first written above.

CITY OF TEMPE

Approved and Accepted By:


Mayor Date

Attest:

City Clerk Date

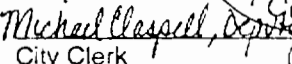
CITY OF MESA

Approved and Accepted By:



City Manager Date 11/8/07

Attest:



City Clerk Date 11/3/07



APPROVAL OF TEMPE'S CITY ATTORNEY AND MESA'S CITY ATTORNEY

I hereby state that I have reviewed the proposed Intergovernmental Agreement, between the City of Tempe and the City of Mesa pursuant to A.R.S. § 11-952, and declare the Agreement to be in proper form and within the powers and authority granted to their respective governing bodies under the laws of the State of Arizona.

Andrew B. Ching

Tempe's City Attorney

Date: 12-6-07

Debin Springer

Mesa's City Attorney

Date: 11/7/07

Appendix A
Apache Boulevard - Main Street Intelligent Transportation System
Intergovernmental Agreement
Estimated Cost Breakdown

Estimated City of Tempe Construction Cost:	\$120,000.00
Estimated City of Mesa Construction Cost:	<u>\$1,100,000.00</u>
Total Estimated Construction Cost:	\$1,220,000.00
Total Maximum Federal Grant:	\$980,000.00
Total Estimated Local Share (Mesa and Tempe)	\$240,000.00